

**FACSIMILE 704-234-6011**

As we have discussed in the past, Dr. Harris and we at the firm have some concerns about the proposed CIP application. One such concern is that the proposed CIP claims inventions that are claimed in previously filed applications of different inventive entities, and these applications are not commonly owned. Priority claims based upon these previously filed and separately owned applications do not overcome conflicts where the same invention is being claimed.

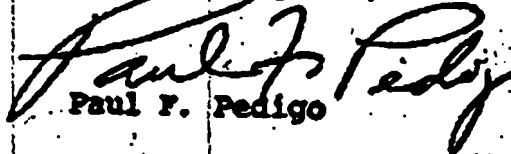
BELL SELTZER, PARK & GIBSON  
Theresa A. Brown, Esqs.  
September 23, 1994  
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In our opinion, the claims in the CIP should be limited solely to joint inventions of Dr. Harris and Synergen inventors. Sole inventions not claimed in previously filed applications should be claimed in separate applications. A claim of the joint inventive entity should be patentably distinct from the subject matter disclosed in Synergen's and Shearwater's previously filed and separately owned applications. The previously separately owned applications of Synergen and Shearwater and Synergen's PCT international application, PCT/US92/02122, which was published on October 1, 1992, which is more than one year before the filing date of June 16, 1994 of the proposed CIP, are all prior art documents to be applied against any joint claims for whatever the documents disclose.

Please do not hesitate to contact us if you have questions or comments on the above matters.

Best regards.

Very truly yours,

  
Paul F. Pedigo

PF:gr:134370

cc: J. Milton Harris, Ph.D.